

281.630 Basis for granting or refusing certificate or permit, amendment, transfer, sale, change in routes, or abandonment of certificate or permit -- Specification of routes, service, territory, number of vehicles, multiple certificates -- Contract carrier permits -- Transfer of certificate and permits -- Consolidation -- Hearings.

- (1) A certificate of public convenience and necessity for the transportation of persons or household goods shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operation covered by the application, if it is found that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this chapter and the requirements and the administrative regulations of the department promulgated thereunder, and further that the existing transportation service is inadequate, and that the proposed service, to the extent to be authorized by the certificate, is or will be required by the present or future public convenience and necessity, and that the proposed operation, to the extent authorized by the certificate, will be consistent with the public interest and the transportation policy declared in this chapter; otherwise the application shall be denied, provided, however, that nothing in this section shall be construed so as to require the department to give, to any existing carrier authorized to render service to, from or between any point on the route proposed to be served by the applicant, any notice regarding the quality or quantity of its service to, from or between these points or to require the department to give to an existing carrier any opportunity to improve its existing service or to render the service found to be needed before the issuance of a certificate to the applicant.
- (2) In granting a certificate of public convenience and necessity, the order, among other things, shall specify the route or routes of service and territory to be served, if applicable, provided that where the certificate to be granted specifies a route or routes or portion of a route or routes common to a certificate or certificates authorizing the same type of operation held by the applicant, all the certificates shall constitute but a single operating authority over that portion of the route or routes common to the certificates. The order granting a certificate shall not limit the number of vehicles to be operated by the motor carrier except that, in the granting of a certificate for the operation of taxicabs, the order shall specify the maximum number of taxicabs to be operated thereunder.
- (3) A nonprofit bus certificate shall be issued to any qualified applicant therefor authorizing in whole or in part the operations covered by the application if it appears from the application and any hearing held thereon that the applicant is fit, willing, and able properly to render the proposed service and to conform to the applicable provisions of this chapter and the administrative regulations of the department promulgated thereunder, that the proposed service, to the extent authorized by the certificate, will not unreasonably compete with or divert business from any authorized carrier of passengers then adequately serving the same area, and further that the proposed operation, to the extent authorized by the certificate, will serve the public interest; otherwise the application shall be denied. If no protest to the application is filed, it shall be taken to mean that no unreasonable competition

or diversion will occur, and the commissioner may, if satisfied from the application that the applicant is a fit one and that the proposed operation will serve the public interest, issue a nonprofit bus certificate without a hearing.

- (4) A carrier shall be entitled to have issued to it by the department as many certificates, and of appropriate types, as will cover its entire authorized operation.
- (5) A permit for the transportation of persons shall be granted to any qualified applicant therefor authorizing in whole or in part the operations covered by the application, if it appears from the application and the hearing held thereon that the applicant is fit, willing, and able properly to perform the service of a contract carrier by motor vehicle and to conform to the provisions of this chapter and the lawful requirements and the administrative regulations of the department promulgated thereunder, and that the proposed operation to the extent authorized by the permit will be consistent with the public interest and the transportation policy declared in this chapter, and that it will not unreasonably impair the efficient public service of any authorized common carrier then adequately serving the same territory, and if it further appears that the existing transportation service is inadequate, and that it appears that the proposed service is needed; otherwise the application shall be denied. The department shall specify in the permit the business of the contract carrier covered thereby and the scope thereof, and shall attach to it at the time of issuance, and from time to time thereafter, any reasonable terms, conditions, and limitations consistent with the character of the holder as a contract carrier as are necessary to carry out, with respect to the operations of the carrier, the requirements established by the department.
- (6) Amendment or change of route or abandonment of a certificate or permit shall be granted upon the same basis that an original certificate or permit is granted.
- (7) A certificate of compliance for the transportation of property except household goods shall be issued to any qualified applicant therefor, authorizing operation covered by the application, if it is found that the applicant conforms to the provisions of this chapter and the requirements and the administrative regulations of the department thereunder.
- (8) Any household goods or passenger certificate or permit, or portion thereof, where applicable, may be sold, assigned, leased, or transferred, after a hearing and notice to interested parties as provided for in KRS 281.625 and subject to terms, conditions, and modifications as the department shall find to be just and reasonable, provided the transferee is fit, willing, and able to render the proposed service and the proposed transaction, subject to the terms, conditions, and modifications as the department may impose, will not be against the public interest, and provided further that the commissioner may approve the sale and transfer of a certificate or permit, or portion thereof, without a hearing if, after due notice of the proposed sale or transfer is given to all interested parties in accordance with the administrative regulations of the department, no protest is filed to the proposed sale or transfer and the commissioner believes that it will be in the public interest.
- (9) For the purpose of this section, a transfer of the controlling stock of a corporation owning a certificate or permit may be considered a transfer of a certificate or permit.

- (10) Upon the consummation of a merger or consolidation of motor carriers as effected under the provisions of KRS Chapter 271B, the surviving or new corporation, as the case may be, shall own and possess all of the certificates, permits, authorizations, licenses, rights, privileges, franchises, and properties owned or possessed by each of such motor carriers; and if the merger or consolidation is set aside, the certificates, permits, authorizations, licenses, rights, privileges, franchises, and properties acquired by the surviving or new corporation through the merger or consolidation shall become revested in the corporation from which acquired, unless disposed of, subject to any indebtedness and liens as may be equitable, and all other properties of the surviving or new corporation shall become vested in the constituent corporation in a manner as may be fair and equitable.
- (11) (a) Notwithstanding the provisions of subsection (4) of this section, where a motor carrier has been granted two (2) or more certificates or permits authorizing the same type of operation over a route or routes or a portion of a route or routes common to two (2) or more of the certificates or permits, the carrier shall be deemed to possess only one (1) operating authority over that portion of the routes common to the certificates or permits.
- (b) The department is authorized to recall any certificates and to reissue one or more certificates covering the exact authority.
- (12) Hearings conducted under authority of this section shall be conducted in the same manner as provided in KRS 281.625.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 174, sec. 7, effective July 15, 1996; and ch. 318, sec. 196, effective July 15, 1996. -- Amended 1978 Ky. Acts ch. 232, sec. 8, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 74, Art. IV, sec. 20(2). -- Amended 1972 Ky. Acts ch. 274, sec. 157. -- Amended 1960 Ky. Acts ch. 139, sec. 6. -- Amended 1958 Ky. Acts ch. 130, sec. 11. -- Amended 1956 (2nd Extra. Sess.) Ky. Acts ch. 7, sec. 1. -- Amended 1952 Ky. Acts ch. 21, sec. 1. -- Created 1950 Ky. Acts ch. 63, sec. 13, effective June 15, 1950.

Legislative Research Commission Note (7/15/96). This section was amended by 1996 Ky. Acts chs. 174 and 318 which do not appear to be in conflict and have been codified together.